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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,079	07/20/2001	Ying Bo Huang	32149631.4	2918
23562	7590	03/30/2005	EXAMINER	
BAKER & MCKENZIE PATENT DEPARTMENT 2001 ROSS AVENUE SUITE 2300 DALLAS, TX 75201			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,079

Applicant(s)

HUANG ET AL.

Examiner

Brian D Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the application filed on 7/20/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The applicant is requested to fill in the blanks on page 1.

Claim Objections

2. Claims 1-8 are objected to because of the following informalities:

Claim 1, line 1, it is suggested to insert --the step of-- after “comprising”.

Claim 2, line 2, “a network management server” and “a network connecting device” seem to refer back to, “a network management server” and “a network connecting device” in lines 2 and 3 of claim 1. If this is true, it is suggested to change “a network management server” and “a network connecting device” to --the network management server-- and --the network connecting device--.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 4, “each terminal user” and “each service” are unclear because it is unknown if the system includes a plurality of terminal users and a plurality of services.

Claim 2, line 8, “notifying a service process to the connecting port” is unclear. Notifying a service process to the connecting port seems to mean notifying a service process to the connecting device. If this is true, it is suggested to change “notifying a service process to the connecting port” to --notifying a service process to the connecting device--. In line 10, “each service process” is unclear because it is unknown if a plurality of services are being processed.

Claim 4 recites the limitation “the flag” in line 2; “the related counters” and “the data rate” in line 3. There is insufficient antecedent basis for this limitation in the claim. In line 4, “it will be dropped” is unclear what will be dropped.

Claim 8, line 1, “each service” is unclear because it is unknown if the system includes a plurality of services.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Zavalkovsky et al (6,822,940).

Regarding claim 1, Zavalkovsky discloses a process for network data flow control comprising: controlling a network connecting device (220) of at least two connecting ports

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directly from a network management server (202) in order to achieve data flow control of each terminal user (216) and each service (see figure 2; col. 7, line 54-col. 8, line 41).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zavalkovsky in view of Roy (6,081,513) and Puente et al (6,820,132).

Regarding claim 2, Zavalkovsky discloses establishing a protocol and reporting the network device's running condition to the network server by the protocol (see col. 1, lines 9-13 and 17-34). Zavalkovsky does not specifically disclose determining whether a user's service request can be accepted and dropping extra data if one service process data flow exceeds a requested capacity. However, these features are well known in the art. Roy discloses a service request can be accepted, rejected, or accepted to operate in degraded mode (see abstract) and Puente discloses dropping extra data if one service process data flow exceeds a requested capacity (see col. 8, lines 17-24 where Puente teaches the excess packets will be discarded). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the flow control techniques as taught by Roy and Puente in the system of Zavalkovsky in order to control the flow of data through the network based on quality of service.

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9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zavalkovsky in view of Roy and Puente as applied to claim 2 above, and further in view of Brophy et al (2003/0055974).

Regarding claim 3, Zavalkovsky in view of Roy and Puente does not specifically disclose more than one network management server can manage a network corporately these network servers are separated into groups by their opposition in the network or the service they provide or both. However, these features are well known in the art. Brophy discloses these features (see different groups of servers in figures 2 and 3). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to user different groups of servers as taught by Brophy in the system of Roy in order to provide different services to the users.

10. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zavalkovsky in view of Roy, Puente, and Brophy as applied to claim 3 above, and further in view of Morris III (5,915,124).

Regarding claims 4-8, Zavalkovsky discloses the Ethernet (see col. 1, line 23), Brophy discloses video service, audio service, etc. (see figure 3), and Puente discloses the data rate of each service is user define (see col. 8, lines 22-23 where Puente teaches Excess Information Rate is negotiated by the customer). Zavalkovsky in view of Roy, Puente, and Brophy does not specifically disclose an Ethernet data packet includes flag, packet length, and other fields used for flow control. However, these features are well known in the art. Morris discloses these features (see figure 6; col. 7, lines 11-47). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the flow control technique as

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taught by Morris in the system of Zavalkovsky in order to control the flow of data through the network.

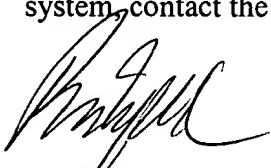
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takeuchi et al (6,321,260).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



3/26/05

BRIAN NGUYEN
PRIMARY EXAMINER